

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH

Petitioner,

v.

ICE CREAM & STUFF and
GURDARSHAN SINGH

Respondents

Case No.: I-00-70208

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 23 Chapter 30 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (00-70208) served February 21, 2002, the Government charged Respondents Ice Cream & Stuff and Gurdarshan Singh with a violation of 23 DCMR 3012.1 for allegedly failing to take all necessary precautions to keep their premises free from rats and vermin.¹ The Notice of Infraction alleged that the violation occurred on February 5, 2002 at 1500 Benning Road, N.E., and sought a fine of \$1,000.

On March 15, 2002, Respondents filed a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2). Respondents did not include an explanation with their plea, however. By order of this administrative court dated April 3, 2002, Respondents were permitted

¹ 23 DCMR 3012.1 provides: “All persons engaged in the operation of any restaurant, delicatessen, or catering business shall be required to take all necessary precautions to keep the premises free from rats and vermin.”

to file an explanation for their admitted violation within seven (7) calendar days of the order's April 4, 2002 service date. No response has been received from Respondents.

II. Findings of Fact

1. By their plea of Admit with Explanation, Respondents have admitted violating 23 DCMR 3012.1 on February 5, 2002 at 1500 Benning Road, N.E.
2. On February 5, 2002, Respondents failed "to take all necessary precautions to keep their premises free from rats and vermin" at 1500 Benning Road, N.E. 23 DCMR 3012.1.
3. On March 15, 2002, Respondent filed a plea of Admit with Explanation, but did not include an explanation with their plea as instructed on the back of the Notice of Infraction. By order of this administrative court dated April 3, 2002, Respondents were allowed seven additional days in which to file an explanation for their admitted violation. No response has been received from Respondents.

III. Conclusions of Law

Respondents violated 23 DCMR 3012.1 on February 5, 2002. A fine of \$1,000 is authorized for a first violation of this regulation which, there being no mitigating evidence in the record, I will impose without reduction.² 16 DCMR §§ 3201.1(a)(1) and 3216.1(i).

² The Rodent Control Act of 2000 is Title IX of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000, D.C. Law 13-172. *See* 47 D.C. Reg. 8962 (November 10, 2000); 47 D.C. Reg. 6308 (August 11, 2000). Section 910(b) of that Act established new fines for violations of various rodent control measures, including § 3012.1. 47 D.C. Reg. at 6339 (August 11, 2000).

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Respondents, who are jointly and severally liable, shall pay a fine in the total amount of **ONE THOUSAND DOLLARS (\$1,000)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that, if Respondents fail to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondents pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondents' business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

/s/ **05/17/02**

Mark D. Poindexter
Administrative Judge